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6

7 IN THE UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON

9 WENDY SCHULLER, an individual,) NO. 2:23-cv-00059
10 Plaintiff,)
11 v.) **JOINT STATEMENT OF**
12 EASTERN WASHINGTON) **UNCONTROVERTED FACTS**
13 UNIVERSITY, a regional university;)
and LYNN HICKEY, an individual,)
14 Defendants.)
15

16 Pursuant to Plaintiff's Statement of Additional and Disputed Facts (ECF No.
17 57), Plaintiff does not dispute the factual allegations set forth in paragraphs 1-8 of
18 Defendants' Statement of Material Facts Not in Dispute (ECF No. 47). Likewise,
19 pursuant to Defendants' Reply Statement of Material Facts Not in Dispute (ECF No.
20 69), Defendants do not dispute the facts set forth in the following paragraphs of
21 Plaintiff's Statement of Additional and Disputed Facts (ECF No. 57): 1-7, 9, 11, 13-
22 15, 17-24, 27-29, 33-40, 42-47, 50, 55-56, 62-64, 66, 71-73, 75-77, 79, 83-84, 86-
23 88, 90-91, 94-102, 105-108, 111, 113-116, 118, 122, 130, 131, 133-139, 143-144,

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26 JOINT STATEMENT OF
UNCONTROVERTED FACTS - 1

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1 151-152, 155-159, 163-166, 168-170, 173-180, 182-184, 189, 193, 196-198, 200,
2 202, 204-205, 208, 210-215, 217, 220-224, 227-229, 231-234, 237-240, 242, 244-
3 245, 249-251, 256-265, 271, 273-278, 280-281, 283, 285, 288-289, and 293.

4 Therefore, the parties, by and through counsel, set forth the below Joint
5 Statement of Uncontroverted Facts:

6 1. Wendy Schuller first began playing basketball at the age of 5. ECF No.
7 57 at ¶ 1.

8 2. In 1992, Coach Schuller was hired as Graduate Assistant for the
9 Women's Basketball team at Northwestern State University ("NSU"). Id., at ¶ 2.

10 3. In 1993, Coach Schuller graduated with her Master's from NSU. She
11 then was hired for a permanent full-time position as an Assistant Coach for NSU's
12 Women's Basketball Team. Id., at ¶ 3.

13 4. Beginning in approximately 1996, Coach Schuller also served as the
14 Senior Woman Administrator ("SWA") for NSU, in addition to her duties as
15 Assistant Coach. Id., at ¶ 4.

16 5. In 1998, Coach Schuller was promoted from Assistant Coach to
17 Associate Head Coach at NSU. Id. Coach Schuller continued to serve as the SWA
18 for NSU. Id., at ¶ 5.

19 6. In June 2001, Coach Schuller was hired to be Defendant Eastern
20 Washington University's ("EWU") Head Women's Basketball Coach. Id., at ¶ 6;

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1 ECF No. 47 at ¶ 1.

2 7. Coach Schuller thereafter held that position as an employee of EWU
3 for approximately 20 years, working under various different Athletic Directors and
4 University administrations. ECF No. 57 at ¶ 7.

5 8. On March 31, 2021, Ms. Schuller was terminated from her position as
6 Head Coach for EWU Women's Basketball Team. ECF No. 47 at ¶ 7.

7 9. This occurred after Coach Schuller had reported Title IX issues
8 affecting EWU's athletic programs to a Title IX auditor retained by EWU in
9 September 2020. It was also after she reported two Title IX issues involving EWU
10 Football players, which occurred in February 2019 and December 2020,
11 respectively. ECF No. 57 at ¶ 9.

12 10. Coach Schuller was 51 years old at the time she was fired, and had by
13 then devoted 46 of those 51 years to playing and/or coaching women's basketball.
14 Id., at ¶ 11.

15 11. At the time of her termination, Ms. Schuller was offered a six-month
16 severance check pursuant to the Termination for Convenience Clause in her contract,
17 which she refused. ECF No. 47 at ¶ 8.

18 12. In her nearly two decades as Head Coach for EWU, Coach Schuller
19 became the all-time winningest coach in EWU women's basketball history and the
20 4th all-time winningest coach in Big Sky women's basketball history. ECF No. 57

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1 at ¶ 13.

2 13. Coach Schuller was named the 2010 Big Sky Coach of the Year, and
3 coached EWU's women's basketball team to four post-season appearances,
4 including the only two post-season wins in the school's history. Id., at ¶ 14.
5

6 14. Coach Schuller recruited and coached scores of talented players who
7 themselves went on to receive numerous accolades on a regional and indeed national
8 scale. Id., at ¶ 15.
9

10 15. On 4/18/17, Coach Schuller's last performance review was provided to
11 her by then-Athletic Director William Chaves. Id., at ¶ 17.
12

13 16. That evaluation noted that the EWU Eagles were the only team to
14 advance to the semifinal round of the Big Sky Tournament in each of the preceding
15 three seasons. It also acknowledged that Coach Schuller's program was "nationally
16 recognized for their performance in the classroom on numerous occasions." Id., at ¶
17 18.
18

19 17. Coach Schuller's 4/18/17 Eval confirmed that she met or exceeded
20 expectations in every category, including Competitive Results in which she was
21 rated "Exceeds Expectations". Id., at ¶ 19.
22

23 18. Indeed, Defendant Hickey's own declaration confirms that between
24 2011 and the end of the 2017-18 season, which ended shortly after Hickey was hired
25 in February 2018, the Women's Basketball Team finished in the top three teams in
26

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1 the conference all but one year, when the team finished in fourth place. ECF No. 48
2 at 4. In fact, the team had finished first in the conference for the 2009-10 season,
3 followed by a 6th place finish in 2010-11, and a strong return to 3rd place by the
4 following year, 2011-12. Id., at ¶ 20.
5

6 19. It was only after Defendant Hickey became Athletic Director in 2018,
7 that the team finished in 6th, 10th, and 9th place for the 2018-19, 2019-20, and 2020-
8 21 seasons, respectively. Notably, two of those years were during the Covid 19
9 pandemic, at a time when the Athletic Department was besieged by difficulties as
10 discussed further below. Id., at ¶ 21.
11

12 20. During Plaintiff's tenure as EWU Women's Basketball Head Coach,
13 the Women's Basketball Team's record was as follows:
14

Season	Overall	Conference	Standing	Postseason
Eastern Washington (Big Sky) (2001–present)				
01–02	11–18	6–8	5th	
02–03	17–12	7–7	5th	
03–04	13–16	5–9	6th	
04–05	16–12	8–6	4th	
05–06	13–15	7–7	T–4th	
06–07	10–19	5–11	7th	
07–08	4–25	1–15	9th	
08–09	10–19	5–11	7th	
09–10	19–12	12–4	1st	WNIT 1st Round
10–11	13–18	8–8	6th	
11–12	16–14	10–6	3rd	
12–13	19–13	14–6	3rd	WNIT 1st Round
13–14	16–14	12–8	4th	
14–15	21–12	12–6	T–3rd	WNIT 2nd Round
15–16	20–12	13–5	2nd	
16–17	19–14	12–6	4th	WBI 2nd Round

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17–18	17–14	12–6	4th
18–19	13–20	9–11	6th
19–20	4–26	3–17	10th
20–21	6–17	5–12	9th
Eastern Washington:	277–322		166–169
	(.462)		(.496)

4 ECF No. 47, at ¶ 3.

5 21. On 4/19/17, Coach Schuller again signed a new contract with EWU,
6 formally renewing her employment as the Head Women’s Basketball Coach. The
7 contract was for a definite five-year term, effective 5/1/2017 through 4/30/2022,
8 “unless terminated sooner in accordance with [EWU Policy] 406-01 –
9 Administrative Employees and/or in accordance with the provisions of this
10 contract.” ECF No. 57 at ¶ 22; ECF No. 47 at ¶ 2.

13 22. In that regard, Coach Schuller’s contract contained both a “Termination
14 by University with Cause” clause, and a “Termination for Convenience” clause. ECF
15 No. 57 at ¶ 23. The Termination for Cause provision specifically limited the
16 University’s right to terminate Coach Schuller’s contract prior to expiration to
17 circumstances giving rise to “just cause”. Id. Those circumstances are specifically
18 defined in the contract, and include “failure to perform job duties assigned by the
19 Director or the President,” “change of the program in which the administrative
20 position inheres”, or “violation of those duties outlined in this contract.” Id.

23 23. The latter “Termination for Convenience” provision states that
24 Defendant may terminate Coach Schuller without cause, “at the discretion of the
25

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1 Director, with approval of the President". Unlike the Termination for Cause
2 provision, the Termination for Convenience clause is silent as to whether it can be
3 used to terminate a Coach prior to expiration of the contract. However, notably,
4 EWU Policy 406-1 specifically confirms that unlike other exempt appointments,
5 "contracted employees" are **not** "at-will" employees. Paragraph 2-5 further
6 confirms that only "*exempt at-will*" employees can be terminated "at any time by the
7 appointing authority or designee, with or without cause." Id., at ¶ 24.
8

9 24. Coach Schuller subsequently observed that prior to her termination, no
10 EWU coaches were terminated using the termination for convenience clause. Id., at
11 ¶ 27.

13 25. To Coach Schuller's knowledge, EWU certainly never used the
14 "Termination for Convenience" clause as a means of terminating any other coaches'
15 contracts due to purported issues with the teams' win/loss record, player transfers,
16 or general performance. Id., at ¶ 28.

18 26. Instead, in the 20+ years Coach Schuller coached Women's Basketball,
19 the practice at both EWU and NSU was to communicate feedback and expectations
20 via annual performance appraisals. Id., at ¶ 29.

22 27. On 2/9/2018, EWU hired Lynn Hickey as the Interim Athletic Director.
23 Id., at ¶ 33.

25 28. On 4/25/2018, the position became permanent when EWU formally
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1 appointed Lynn Hickey to be EWU's Athletic Director. Id., at ¶ 34.

2 29. Prior to commencing employment as EWU's Athletic Director,
3 Defendant Hickey was the Athletic Director for the University of Texas San Antonio
4 for 18 years, from the fall of 1999 to the fall of 2017. Id., at ¶ 35.

5 30. From approximately 1994 to the fall of 1999, Defendant Hickey was
6 the Senior Associate Athletic Director for Texas A&M University. Before that,
7 Defendant Hickey served as Texas A&M's head Women's Basketball Coach and
8 Associate Athletic Director / Senior Woman Administrator. Id., at ¶ 36.

9 31. Defendant Hickey testified that in the 45 years she was employed as an
10 administrator in college athletics, she only recalled ever terminating five coaches
11 pursuant to a "Termination for Convenience Clause" prior to Coach Schuller's
12 termination in March 31, 2021. Id., at ¶ 37.

13 32. Of those five coaches that Defendant Hickey purportedly fired "for
14 convenience" prior to March 31, 2021, three were individuals for whom Defendant
15 Hickey believed there was just cause for termination. Id., at ¶ 38. Defendant Hickey
16 used the "Termination for Convenience" clause because she lacked adequate
17 documentation to justify a "for cause termination". Id.

18 33. Upon becoming EWU's Athletic Director, Defendant Hickey became
19 Coach Schuller's direct supervisor, replacing former Athletic Director William
20 "Bill" Chaves. Id., at ¶ 39.

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1 34. Initially, Coach Schuller was ecstatic about EWU's decision to hire
2 Hickey, as she was a former Head Women's Basketball Coach herself, and
3 considered to be a trail-blazer in college athletics. Coach Schuller warmly welcomed
4 Ms. Hickey to EWU, and even helped her go house-hunting in an effort to help her
5 settle in and feel at home. Id., at ¶ 40.
6

7 35. In May 2018, Coach Schuller, then 48 years old, informed Defendant
8 Hickey that she was interested in applying for the open Senior Woman Administrator
9 position at EWU. The Senior Woman Administrator is the highest-ranking female
10 involved in the management of an institution's intercollegiate athletics program,
11 other than the Athletic Director herself, if a woman. Id., at ¶ 42.
12

13 36. Coach Schuller provided a copy of her resume to Hickey, and prepared
14 a short presentation outlining the reasons she believed she would be a good fit for
15 the position. Id., at ¶ 43.
16

17 37. Coach Schuller had been coaching at EWU for 17 years at that time.
18 Id., at ¶ 40. She was intimately familiar with every aspect of the work performed by
19 the Athletic Department, routinely handling issues involving compliance, budgets,
20 athlete welfare, public relations, etc. – all skills and duties necessary to succeed as
21 the Senior Woman Administrator. Id., at ¶ 44.
22

23 38. Coach Schuller had also previously served as SWA for Northwestern
24 State University, another Division I University, while still coaching and before
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1 accepting employment as EWU's Head Women's Basketball Coach. Id., at ¶ 45.

2 39. Coach Schuller had well-established relationships with the other
3 coaches in EWU's Athletic Department, having worked with and mentored many of
4 them for many years already. Id., at ¶ 46.

5 40. Coach Schuller outlined for Defendant Hickey her comprehensive
6 leadership ideas to help with the growth of the EWU Department, and the coaching
7 staff should she be hired. Id., at ¶ 47.

8 41. Defendant Hickey informed Plaintiff Schuller she was welcome to
9 apply. Id., at ¶ 50.

10 42. Sarah Adams was ultimately hired for the position. At the time she was
11 hired, Ms. Adams had no coaching experience and 4 years' experience as a Senior
12 Woman Administrator at a different university. Id., at ¶ 55.

13 43. In hiring Ms. Adams, Defendants Hickey and EWU did not hire Coach
14 Schuller, or several other older, qualified and experienced women who interviewed
15 for the same position. Id., at ¶ 56.

16 44. Defendants Hickey and EWU also treated Eastern's female athletes
17 differently than its male athletes in resources and athletic opportunities. Id., at ¶ 62.

18 45. As of 2020, EWU's Men's Basketball Team had a designated Director
19 of Basketball Operations. Id., at ¶ 63.

20 46. EWU's Women's Basketball Team did not. Id., at ¶ 64.

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1 47. The men's teams were frequently permitted to fill open assistant coach
2 positions immediately. Id., at ¶ 66.

3 48. Defendants Hickey and EWU prioritized the men's sports teams and
4 the Football Team in particular with the hiring of physical conditioning and strength
5 coaches. Id., at ¶ 71.

6 49. EWU's men's sports teams had full-time strength training coaches,
7 selected with input from the head coaches of those teams. Id., at ¶ 72.

8 50. Coach Schuller was given little to no say in such hiring decisions for
9 the Women's Basketball Team, and was permitted to hire only graduate assistants
10 as compared to the fully qualified full-time coaches hired by EWU's men's teams.
11 Id., at ¶ 73.

12 51. EWU also failed to provide equal facilities and equipment to its
13 women's teams.

14 52. This contributed to health and safety issues and injuries that repeatedly
15 sidelined EWU's female athletes during the basketball seasons. Id., at ¶ 75.

16 53. The floor of EWU's basketball court, which is predominantly used by
17 the University's women's volleyball and basketball teams is original to the school
18 and over a decade past its useful lifespan. Id., at ¶ 76. It is well known that the
19 condition of the floor is so inadequate that many female athletes suffered leg injuries
20 during games and practices as a result. Id.

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1 54. Defendants Hickey and EWU were aware of the condition of the gym
2 floor and the safety issues that were allegedly implicated. Id., at ¶ 77. When Coach
3 Schuller and the coaches of the other affected teams approached Defendant Hickey
4 to petition the school for better facilities, they were told they would need to raise the
5 money themselves to replace the floor. Id.
6

7 55. By contrast, Defendant Hickey personally and actively engaged in
8 fund-raising efforts with such donors on behalf of the Men's Football Team,
9 requesting that they contribute funds to build a replacement Football field which was
10 in better condition than the basketball court used by mostly women's teams. Id., at
11 ¶ 79.
12

13 56. In response to an email from Head Women's Soccer Coach Bodnar,
14 Defendant Hickey emailed EWU's weight room trainer to apologize to him for the
15 inconvenience caused by Coach Bodnar's efforts to secure equal access for his
16 female athletes. Id., at ¶ 83.
17

18 57. In that same email, Defendant Hickey stated "It is time the other
19 programs step up and either deny this in another email or we know who their leader
20 is." Id., at ¶ 84.
21

22 58. In emails between Defendant Hickey and SWA Sarah Adams and
23 Deputy Athletic Director Devon Thomas, Adams proposed that Defendant Hickey
24 could "let him go" pursuant to the "Termination for Convenience Clause" in Coach
25

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1 Bodnar's contract. Id., at ¶ 86.

2 59. Alternately, SWA Adams elaborated, "Or you can let him go when his
3 contract expires in three months, either way he gets three months. Question is,
4 what's your threshold for tolerating this behavior, and his behavior is also
5 influencing other individuals [sic] behavior." Id., at ¶ 87.
6

7 60. Ultimately, that is exactly what occurred. Id., at ¶ 88. Shortly after
8 Coach Schuller was terminated on 3/31/21, purportedly pursuant to the "termination
9 for convenience" in her contract, following her undisputed efforts to report similar
10 Title IX issues, EWU failed to renew Coach Bodnar's contract, despite the
11 unmitigated success of the. soccer team under his tutelage. Id.
12

13 61. In the Fall of 2020, all of EWU's sports teams were asked to take a 30%
14 budget cut. Id., at ¶ 90.
15

16 62. This had a disproportionate impact on EWU's women's teams, which
17 had a smaller budget than EWU's men's teams to begin with, and which lacked
18 access to the external/fundraised/donated dollars provided to the Men's Basketball
19 and Football Teams. Id., at ¶ 91.
20

21 63. The Women's Basketball Team played a guarantee game that season,
22 yet was not permitted to use the proceeds to fund the Graduate Assistant position
23 that year. Id., at ¶ 94.
24

25 64. The same year, the Men's Basketball Team was permitted to hire both
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1 a Graduate Assistant and a Director of Operations prior to the start of their season
2 using funds not made available to the Women's Basketball Team. Id., at ¶ 95.

3 65. Hickey further refused to allow the Women's Basketball Team to
4 purchase new uniforms and required the team to scale back on gear that season, in
5 order to cut costs. This was not the case with some of the men's sports teams. Id.,
6 at ¶ 96. EWU paid for meals for the Football Team the night before and the day of
7 games. Id.

8 66. EWU did not pay for any meals the night before any of its women's
9 teams' games. Id., at ¶ 97.

10 67. At the height of the COVID-19 pandemic, due to budget restrictions
11 imposed on the Women's Basketball Team, the team drove vans to games in lieu of
12 taking buses, precluding effective social distancing that would have made travel
13 safer. Id., at ¶ 98.

14 68. No such restrictions were placed on EWU's Men's Football and/or
15 Basketball Teams, which had additional donor funds not made available to EWU's
16 women's teams to help offset the effects of the budget cuts. Id., at ¶ 99.

17 69. The Women's Basketball Team was forced to take taxis and purchase
18 food at a grocery store during the 2021 Big Sky Conference Tournament in order to
19 save on travel and restaurant expenses. Id., at ¶ 100.

20 70. Weeks later, the Men's Football Team took five charter buses to

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1 transport the team and coaching staff to Moscow, Idaho for a single game. Id., at ¶
2 101. This included one bus that departed with less than ten Football players on
3 board, allegedly to ensure that there was adequate room for those players to socially
4 distance and travel safely. Id.
5

6 71. On another occasion, due to insufficient funds being provided to the
7 Women's Basketball Team early in the 2020-2021 season, Coach Schuller had no
8 choice but to advance the funds to pay for trips out of her own pocket, and incur the
9 expense until later reimbursed. Id., at ¶ 102. She used her personal credit card to
10 ensure that the Women's Basketball Team could check bags for free on certain
11 airlines. Id.
12

13 72. Disparities existed with respect to EWU's allocation of funding and
14 opportunities for marketing and promotion of its men's teams as compared to its
15 women's teams. Id., at ¶ 105.
16

17 73. EWU's men's teams benefitted from game-day promotions not
18 provided to the women's teams. Id., at ¶ 106. The Men's Basketball and Football
19 Teams had radio shows broadcast on the regional ESPN radio station, in addition to
20 all of their games; the women's teams did not. Id.
21

22 74. Men's Basketball games and Football games were often locally
23 broadcast on SWX. Id., at ¶ 107.
24

25 75. During the 2020-2021 season, only one such women's game was
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1 broadcast. Id., at ¶ 108.

2 76. In the nine seasons before Hickey's arrival (from 2010 to 2018), Coach
3 Schuller's Women's Basketball Team won an average of 17.7 games per year. Id.,
4 at ¶ 111. This included finishing in 4th place or higher and winning 10 or more Big
5 Sky games in 8 out of those 9 years. Id.

6 77. On 2/3/19, one of Coach Schuller's Women's Basketball ("WBB")
7 players, reported to Coach Schuller that she was extremely concerned about the
8 safety of her close friend – another student, who was dating an EWU football player.
9 Id., at ¶ 113.

10 78. That player showed Coach Schuller social media posts purporting to
11 describe and evidence alleged abuse against her friend, and a video posted online
12 that appeared to depict the football player throwing what looked like DVDs at her,
13 and screaming vulgarities and threats at her while moving out of her apartment. Id.,
14 at ¶ 114.

15 79. Coach Schuller was deeply disturbed by these posts and the video, and
16 advised her player that as a mandatory Title IX reporter, she was going to have to
17 report what she had been shown and told to her supervisor, Defendant Hickey. Id.,
18 at ¶ 115.

19 80. Coach Schuller then did just that, immediately walking down the hall
20 to Defendant Hickey's office. Id., at ¶ 116. Coach Schuller then reported what she
21

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had been told by her player and showed Defendant Hickey the social media posts.

Id.

81. Defendant Hickey allegedly delegated reporting obligations for Title
IX issues affecting the Athletic Department to Sarah Adams, confirming in her
deposition that a single point of contact was needed because “Title IX did not want
a hundred people calling them”. Id., at ¶ 118.

82. In a later Title IX investigation into allegations that Defendant Hickey
treated female employees differently than male employees, and allowed male
coaches to “talk down” to them, Hickey acknowledged that “Wendy and Aaron
disagreed and Aaron was rude in trying to make a point that he worked harder than
anyone else.” Id., at ¶ 130. Hickey did not stop Best’s behavior.

83. In late September 2020, Coach Schuller was interviewed as part of a
Title IX audit of the Athletic Department conducted by EWU’s consultant, Dr. Helen
Grant. Id., at ¶ 131.

84. On September 29, 2021, the Auditor also interviewed Women’s Golf
Coach Brenda Howe as part of the same audit. Id., at ¶ 133.

85. In a later email sent by Coach Howe to EWU on 4/22/2021 expressing
fear of future retaliation from Defendant Hickey, Coach Howe explained she had
told Dr. Grant “I’ve learned to not speak up for myself or for my athletes based on
how Lynn Hickey treats Wendy Schuller and Marcia Mecklenburg publicly in

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meetings when they have suggestions, ask questions etc. ... I don't want to put myself in a position for her to possibly treat me as poorly as she does with two other veteran female coaches." Id., at ¶ 134. Consistent with Coach Howe's recollection of the interview, Dr. Grant's "summary" of the information gathered from Coach Howe during her interview states "women coach is treated differently tha [sic] anyone else. Too afraid to say anything." Id.

86. Immediately following Dr. Grant's 9/29/20 interview with Coach Howe, Dr. Grant in fact did proceed to share Coach Howe's comments about Coach Schuller and "equity" in the Athletic Department with Defendant Hickey. Id., at ¶ 135.

87. A subsequent Title IX Investigation ("6/14/21 Hickey Title IX Investigation") was conducted by EWU in June and July of 2021. Id., at ¶ 136. During the same timeframe, an Athletic Department Environmental Survey ("6/15/21 Climate Survey") was conducted, following EWU's receipt of allegations from multiple additional employees accusing Defendant Hickey of treating female employees differently than male employees. Id.

88. Defendant Hickey's response to EWU's 6/14/21 Title IX investigation confirms that during their 9/29/20 conversation, Dr. Grant told Defendant Hickey that "Brenda had some strong concerns, reiterating once again the scheduling of the weight room for soccer, and she urged Dr. Grant to talk to the other women's coaches

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1 about the culture in the department”, including specifically Wendy Schuller. Id., at
2 ¶ 137.

3 89. Dr. Grant therefore conducted a second interview of Coach Schuller
4 after speaking with Coach Howe, at which time Coach Schuller disclosed what she
5 perceived as Defendants’ unequal treatment of female employees and athletes. Id.,
6 at ¶ 138.

7 80. Coach Schuller likewise reported that Defendant Hickey treated her
8 differently than younger female coaches and/or male coaches in the department, and
9 that the reason she had not initially raised that issue was her fear of retaliation. Id.,
10 at ¶ 139.

11 91. Defendant Hickey disputes Coach Howe’s use of the word “drama,”
12 but admits that she told Coach Howe that she and Coach Schuller needed to stop
13 engaging in “gossip”. Id., at ¶ 143.

14 92. In her recent deposition on 10/10/24, Defendant Hickey confirmed that
15 by “gossip”, she referred to the Title IX concerns Coaches Howe and Schuller had
16 raised to the Title IX auditor:

17 “A ... I said, as I told you before the break, that I reiterated to [Howe] that,
18 hey, one of our priorities this year as the staff is we don’t gossip, that we don’t
19 go behind people’s back. So I would appreciate if you have concerns that
20 instead of telling an outside person you had never even met before, why
21 wouldn’t you come in and tell me. At that time I thought I was talking about
22 concerns about team travel and the weight room and all that.

1 Q The Title IX concerns that were raised by the Title IX auditor?

2 A Yep, yep."

3 "Q Okay. You had mentioned gossip several times, both in this deposition
4 and in documents I've seen in relation to Wendy Schuller. What are you
5 talking about when you reference gossip?

6 A There was a culture in the Department where people had a tendency to
7 say one thing to someone's face, and then behind their back they would act
8 totally different and it was very harmful and just needed to get it shut down
and - -

9 ...

10 Q Why did you reference gossip in the context of this conversation with
11 Brenda Howe regarding Helen Grant's report?

12 A Well, I think in my mind gossip is what I just said a few seconds ago.
13 It's not being able to have the courage to direct concerns to the person that
14 maybe is in control in trying to change the concerns. I guess that's not really
15 gossip. But it's just back talking. You know, you say one thing, you act one
16 way in front of their face and then like, okay, everything's fine or you done
even come in my office and then behind my back, oh, this is bad, this is bad.
And I'm going come on, guys, I can't fix it if I don't know what's going on
in your minds, what's in your hearts. So that's what I'm referring to.

17 Q So you were referring to the comments that we've been talking about
18 to... Helen [Grant]?

19 A Yes." Id., at ¶ 144.

20 93. In December 2020, an EWU athletic trainer reportedly overheard two
21 EWU Women basketball players discussing repulsive comments about rape
22 allegedly posted on Snapchat by certain EWU football players. Id., at ¶ 151. That
23 trainer then apparently reported what they overheard to the EWU Title IX office. Id.
24

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1 94. Shortly thereafter, one of Coach Schuller's players informed her that
2 she and the other players refused to participate in the subsequent Title IX
3 investigation, specifically because they had been confronted by the football players
4 at issue and were afraid to get involved. Id., at ¶ 152. This player specifically
5 informed Coach Schuller that she and the others had been instructed by the football
6 players that they "better not say anything further". Id.
7

8 95. The monthly one-on-one meetings Coach Schuller previously had with
9 Defendant Hickey were discontinued altogether without explanation. Id., at ¶ 155.
10

11 96. Defendant Hickey continued to actively avoid Coach Schuller on
12 campus, using circuitous routes through the Athletic Department in order to avoid
13 using the hallway outside Coach Schuller's office. Id., at ¶ 156. Hickey also
14 continued to deliberately ignore Coach Schuller's repeated pleas for funding and
15 access to resources needed to help the Women's Basketball Team succeed in the
16 face of Covid and the advent of serious mental health concerns occurring as reported
17 by her players. Id.
18

19 97. Prior to terminating Coach Schuller's employment on 3/31/21,
20 Defendant Hickey never explicitly identified a single issue or complaint with Coach
21 Schuller's performance as Head Coach of the Women's Basketball Team to Coach
22 Schuller. Id., at ¶ 157.
23

24 98. Nor did Defendant Hickey otherwise complain about the team's
25

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1 performance to Coach Schuller in the three years she was Coach Schuller's
2 supervisor. Id., at ¶ 158. This is contrary to Defendant's claim that performance
3 issues formed the basis for Plaintiff's termination on 3/31/21. Id.

4 99. Throughout the 20 years Coach Schuller was a Head Coach at EWU,
5 coaches were never summarily terminated prior to the expiration of their contracts
6 due to a team's win/loss record. Id., at ¶ 159.

7 100. Defendant Hickey admits that she understood she was required to
8 provide performance evaluations for employees in the Athletic Department. Id., at
9 ¶ 163. However, Defendant Hickey acknowledges that throughout her tenure as
10 Athletic Director, she never gave Coach Schuller a single performance evaluation or
11 review, formal or informal. Id.

12 101. This is despite the fact that as administrative exempt employee, EWU
13 Policy required that Coach Schuller receive annual performance appraisals for
14 exactly that reason. Id., at ¶ 164.

15 102. Specifically, Policy 406-01 explains that one of the purposes of the
16 appraisal system for exempt employees like Coach Schuller is to “[i]dentify areas of
17 improvement.” Id., at ¶ 165.

18 103. Coach Schuller's most recent employment contract similarly
19 contemplated that she would receive regular performance reviews, stating
20 “Performance reviews by the University of the Employee shall specifically include
21

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1 an evaluation of how well the participants in the University's intercollegiate athletics
2 programs are performing academically." Id., at ¶ 166.

3 104. Coach Schuller's most recent performance evaluation before Hickey
4 was hired did not identify performance issues, and instead lauded her performance,
5 rating her performance as exceeding expectations in multiple categories including
6 competitive results. Id., at ¶ 168.

7 105. On or about 4/19/19, Coach Schuller was paid a performance incentive
8 based on the Women's Basketball Team's success in the "Conference and post
9 season competition." Defendant Hickey personally signed approving Coach
10
11 Coach Schuller's receipt of this bonus. Id., at ¶ 169.

12 106. Moreover, throughout her employment at EWU, Coach Schuller
13 received academic incentive bonuses every year of her employment due to her
14 team's successes in the classroom. Id., at ¶ 170. This included bonus payments that
15 Coach Schuller earned and received every year after Hickey was hired, the most
16 recent of which was approved in July 2020, during the pandemic. Id.
17
18

19 107. On 1/22/21, Defendant Hickey emailed Dr. Grant advising that she
20 would be reviewing Dr. Grant's draft Title IX Assessment Summary that weekend.
21
22 Id., at ¶ 173.

23 108. On 3/16/2021, at the conclusion of the Women's Basketball Season,
24 Coach Schuller was notified by email that Hickey wanted to meet with her on
25

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1 3/17/2021, to finally provide her with a “performance review”. Id., at ¶ 174.

2 109. This was to be Coach Schuller’s first performance review/appraisal
3 since Hickey became the Athletic Director in February 2018. Id., at ¶ 175.
4 Defendant Hickey told Coach Schuller that her performance review would be sent
5 to her in advance of the meeting “so that you have a chance to review it.” Id.
6

7 110. However, no performance review was ever sent, and Hickey abruptly
8 cancelled the meeting the morning it was to occur. Id., at ¶ 176.
9

10 111. Defendant Hickey had already decided to terminate Coach Schuller’s
11 employment on or before the day she emailed Coach Schuller to request a meeting
12 to discuss her “review”. Id., at ¶ 177.
13

14 112. This is confirmed by text messages between Defendant Hickey and
15 SWA Sarah Adams and Deputy Athletic Director Devon Thomas also dated 3/16/21,
16 in which Defendant Hickey requested their feedback on a draft performance
17 evaluation she had prepared for Coach Schuller. Id., at ¶ 178.
18

19 113. In response, Mr. Thomas texted back “I read it, it was direct. It read as
20 though we were looking to give another year. Is that the direction”. Id., at ¶ 179.
21

22 114. Defendant Hickey responded “No. But waiting to get green light from
23 President. Interesting comment – so what should I be tougher on?” Id., at ¶ 180.
24

25 115. On 3/17/21, Defendant Hickey emailed EWU Interim President David
26 May the draft Schuller Evaluation and letter, acknowledging Coach Schuller’s 20-

1 years of employment at EWU, and advising that Coach Schuller's contract be
2 terminated immediately a year before the expiration of her contract term. Id., at ¶
3 182.

4 116. The reason given for this recommendation was the purported
5 performance of the team and complaints allegedly made by six unidentified players,
6 all but one of whose identities Defendant Hickey does not recall. Id., at ¶ 183.

7 117. The draft Schuller Evaluation prepared and submitted by Defendant
8 Hickey to Dr. May in support of her recommendation to terminate Coach Schuller
9 specifically cited to Coach Schuller's purported "negativity" and "gossiping" as a
10 basis for marking down her performance. Id., at ¶ 184.

11 118. Hickey notes in her draft Schuller Evaluation that "there has not been a
12 lot of guidance or help from development officers in developing a plan" for
13 fundraising for the Women's Basketball Team. Id., at ¶ 189.

14 119. On 3/29/21, Defendant Hickey received the final Title IX Assessment
15 Summary from the audit performed the preceding September (2020). Id., at ¶ 193.

16 120. The Title IX Assessment Summary further confirmed that 14 men's
17 basketball "away" games were broadcast on television and/or streamed, with all
18 home games broadcast on commercial radio. Only one women's basketball away
19 game was broadcasted or streamed on television, and none of the women's
20 basketball games broadcast on commercial radio. Id., at ¶ 196.

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1 121. The Title IX Assessment Summary expressly recommended that EWU
2 “review the administrative support for men’s and women’s basketball” and noted “It
3 is unusual for women’s basketball to not have a Director of Basketball Operations.
4 They should have a DOBO the same as men’s basketball.” Id., at ¶ 197.
5

6 122. The day after receiving the final report, on 3/30/21, Hickey sent Coach
7 Schuller a text message to reschedule her “end of year evaluation” for the following
8 afternoon. Id., at ¶ 198.
9

10 123. On 3/25/21, a severance check for Coach Schuller’s termination was
11 requested, and on 3/29/21, an “At-Will Termination Agenda” was prepared. Id., at
12 ¶ 200.
13

14 124. On 3/31/21, when Coach Schuller showed up at the meeting expecting
15 to go over her first performance review in the 3 years since Defendant Hickey was
16 hired, she was instead summarily fired on the spot, pursuant to a letter stating that
17 she was being terminated “for Convenience”. Id., at ¶ 202.
18

19 125. After she was brazenly fired by Defendant Hickey, Coach Schuller was
20 given 15 minutes to grab what she could from her office on the campus where she
21 had been employed for 20 years, and was then escorted off the premises. Id., at ¶
22 204. Thereafter, EWU issued a press release announcing Coach Schuller’s
23 termination. Id.
24

25 126. Coach Schuller’s health insurance benefits were cut off effective the
26

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1 next day, leaving her to scramble to find coverage for herself and her special needs
2 son. Id., at ¶ 205.

3 127. Previously, on 12/31/2020, 1/2/2021, and 1/7/21, Defendant Hickey
4 texted Coach Schuller congratulations in response to the team's wins. Id., at ¶ 208.
5

6 128. Defendant Hickey testified in her recent 10/10/24 deposition that in
7 assessing whether a coach was meeting expectations, she would typically consider
8 whether any external factors or extenuating circumstances other than coaching might
9 have impacted a team's performance. Id., at ¶ 210.
10

11 129. Hickey testified that during her tenure as Athletic Director at EWU, the
12 Women's Basketball Team and Athletic Department as a whole were majorly
13 impacted by a global pandemic, massive budgetary cuts, a public financial review,
14 and major injuries and athlete mental health concerns. Id., at ¶ 211.
15

16 130. On 11/11/20, Hickey emailed Coach Schuller stating "Wendy – very
17 sorry about all of this. Maybe you are getting through the worst of it now. Let me
18 know if we need to do a call with the parents and what kind of services we can offer
19 the girls during this time." Id., at ¶ 212. On 12/29/20, Coach Schuller informed
20 Defendant Hickey that a player had decided to quit the team because "she was
21 homesick and unhappy and wanted to move home." Id.
22

23 131. On 1/9/21, Coach Schuller texted Defendant Hickey advising her of a
24 positive Covid test result for one of the players, who was waiting on results from a
25

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1 PCR test to confirm. Id., at ¶ 213.

2 132. Defendant Hickey responded by stating “It is just out of your control.
3 So you have had a good start – they will come back. Just have to stay positive - like
4 you have the whole time. The kids have enough drama already - just keep them as
5 relaxed as possible. At least this time you can do individual practice. But maybe it
6 will not be positive.” Id., at ¶ 214.

7 133. On 1/11/21, Defendant Hickey emailed Coach Schuller congratulating
8 her on an award one of her players had received, and on “the improved play of the
9 team the past two weeks.” Id., at ¶ 215. Defendant Hickey further acknowledged
10 “I am sorry [sic] what you [sic] all having to go through with COVID. Please let us
11 know if there is anything special we can help you and the kids get through this new
12 quarantine situation.” Id.

13 134. The Women’s Basketball players frequently were in “close contact”
14 traveling to and from games. As a result, when one player came down with
15 something, multiple players were often quarantined under applicable health rules
16 and guidelines. Id., at ¶ 217.

17 135. As mentioned above, additional major impacts on the team’s
18 performance and ability to win games in 2019 and 2020 included serious mental
19 health concerns caused by both Covid, and the sexual assault on one of the players
20 in 2019. Id., at ¶ 220. Defendant Hickey admitted in her deposition that she was
21

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1 aware of these concerns and their impact on the team's performance. Id.

2 136. Then, just as the team hit its stride and was winning games, in February
3 2021, one of Coach Schuller's best players suffered a season-ending knee injury.
4 Id., at ¶ 221. This had a devastating impact on the team's morale and ability to win
5 games. Id.

6 137. During the same time frame, the Athletic Department was the subject
7 of a very public financial review by the Pictor Group to determine whether EWU
8 would remain a Division I institution and/or eliminate its football team. Id., at ¶ 222.
9

10 138. Defendant Hickey admitted during her 10/10/24 deposition that in 2020
11 and 2021, the Athletic Department and EWU's "young" Women's Basketball Team,
12 were impacted by significant barriers, including without limitation "the Pictor Group
13 audit and the Title IX assessment and a climate survey and massive budget cuts, and
14 massive issues with respect to resources." Id., at ¶ 223.
15

16 139. Even the NCAA recognized the devastating impact of the pandemic by
17 granting all athletes playing fall or winter sports in 2020 an extra year of eligibility.
18 Id., at ¶ 224.
19

20 140. Men's Track & Field Coach Stan Kerr was not terminated, despite the
21 fact that the track team finished in 5th place in the conference for outdoor track events
22 in 2021, 6th place for 2018-19, and had finished in 12th and 9th places respectively in
23 2017 and 2016. Id., at ¶ 227.
24

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1 141. Cross Country Head Coach Sam Read was not fired, despite the fact
2 that his cross-country team never finished higher than 10th place in the conference
3 between 2018 and 2021. Id., at ¶ 228.

4 142. The Women's Volleyball Team's win/loss record was far worse than
5 the record of the Women's Basketball Team during the same timeframe at issue. Id.,
6 at ¶ 229.

7 143. In the eight years before Hickey was hired, the Women's Basketball
8 Team finished in the top 4 in the conference every year. Id., at ¶ 231. Even after
9 Hickey was hired, Coach Schuller's players consistently received Big Sky
10 Conference awards, including 4 players in 2019, and Maisie Burnham who was the
11 Big Sky Conference Freshman of the Year for 2021. Id. Ms. Burnham entered the
12 transfer portal only after EWU announced it had fired Coach Schuller. Id.

13 144. Hickey admits that multiple Volleyball players accused Ms. Flores-
14 Cloud of misogynistic, sexist, and racist conduct and behavior and Title IX
15 violations, triggering a formal investigation by the University. Id., at ¶ 232.

16 145. Ms. Flores-Cloud was not terminated prior to the expiration of her
17 contract. Id., at ¶ 233. In fact, she was not terminated at all. Rather, Coach Flores-
18 Cloud voluntarily resigned of her own accord. Id.

19 146. In response to yet another Title IX investigation subsequently
20 conducted into additional allegations made against Defendant Hickey, this time by
21

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1 former Interim Head Women's Volleyball Coach Anjela Spoja, Hickey later stated
2 that Ms. Flores-Cloud's decision to resign left her "completely blind-sided and very
3 disappointed". Id., at ¶ 234.

4 147. As for the mere fact of players voluntarily transferring in and of itself,
5 less than one month after Coach Schuller had been fired, Defendant Hickey on
6 4/20/21 spoke with the media about this very issue. Id., at ¶ 237. At that time,
7 Defendant Hickey acknowledged "We're a program that's been under a very public
8 (financial) review all year, and we're also dealing with a pandemic that's caused a
9 lot of angst for everyone ... It's the perfect storm." Id.

10 148. Indeed, it was common for players to transfer from EWU for various
11 different reasons, including transferring to bigger institutions with better resources,
12 and/or to Division II programs allowing for more playing time. Id., at ¶ 238.

13 149. Defendant Hickey is further quoted saying of the transfers out of
14 multiple sports teams that year, "It's a new culture for us," and "For years and years,
15 there's been a penalty (sitting out a season) for someone who transfers out, but now
16 that penalty has been taken away." Id., at ¶ 239.

17 150. After Ms. Flores-Cloud became Head Coach on 6/25/2018, EWU's
18 records confirm that she too had multiple players transfer out of her program
19 between 2018 and 3/31/21, including 6 players who entered the transfer portal
20 between 11/7/18 and 4/25/19. Id., at ¶ 240.

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1 151. Coach Bodnar was fired despite the fact that the Soccer Team had
2 finished in 3rd place in 2019 and the 2020-21 seasons, with recent trips to the NCAA
3 Tournament in 2016 and 2017. Id., at ¶242.
4

5 152. Defendant Hickey was personally involved in the hiring process for
6 Coach Schuller's replacement. Id., at ¶ 244.
7

8 153. In the process of considering potential replacements, Defendant
9 Hickey, and then-SWA Sarah Adams, discussed a woman named Deb Patterson. Id.,
10 at ¶ 245.
11

12 154. In her email to EWU Interim President May recommending hiring
13 Heather Ezell, Defendant Hickey again referenced age as part of her hiring decision,
14 stating that if Ms. Ezell accepted the position, EWU "will have a great **young coach**
15 to re-build our women's basketball program." Id., at ¶ 249.
16

17 155. Defendant Hickey proposed paying Ms. Ezell a higher salary than what
18 EWU had been paying to Coach Schuller before Coach Schuller's pay had been
19 reduced due to Covid. Id., at ¶ 250.
20

21 156. Devon Thomas, then-Deputy Athletic Director responded by pointing
22 out "\$130k is more than Wendy was set to make. Do we face any push for hiring a
23 first time HC at a hire [sic] rate than a 20+ year veteran." Id., at ¶ 251.
24

25 157. Coach Schuller and male then-Men's Head Basketball Coach Shantay
26 Legans had both signed their most recent contracts within a week of each other, on
27

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1 4/19/17 and 4/21/17, respectively. Id., at ¶ 256.

2 158. At that time, Coach Schuller had over 17 years of experience as a head
3 coach at EWU. Id., at ¶ 257.

4 159. Male Coach Legans had no prior experience as a head coach, and had
5 only been the assistant coach for EWU's Men's Basketball Team for the 8 years
6 before he was made Head Coach in 2017. Id., at ¶ 258.

7 160. EWU's records confirm that the Men's Basketball and Women's
8 Basketball team records in the three years leading up to the 2017 contracts offered
9 to Coaches Schuller and Legans were virtually identical. Id., at ¶ 259.

10 161. However, Coach Schuller's contract provided for a base pay of
11 \$110,000, which was \$20,000 less than the \$130,000 offered and paid to male Coach
12 Legans. Id., at ¶ 260.

13 162. Coach Schuller's contract provided for annual salary adjustments of
14 \$2,500, while male Coach Legans' contract provided for annual salary adjustments
15 of twice that at \$5,000. Id., at ¶ 261.

16 163. Similar discrepancies existed with regard to most of the incentive
17 bonuses contained in the respective contracts of both coaches. Id., at ¶ 262.

18 164. This includes without limitation, the difference in the academic
19 performance incentives paid to Coach Schuller and male Coach Legans. Id., at ¶
20 263.

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1 165. Coach Schuller's contract provided for her to receive a bonus in the
2 amount of \$1,000 if the women's basketball team had a cumulative GPA above 3.4
3 or if the team's multi-year APR was 975 or greater. Id., at ¶ 264.

4 166. Male Coach Legans' contract provided for him to receive a bonus in
5 the amount of \$5,000, if the men's basketball team achieved a cumulative GPA of
6 3.0 or greater and if the team's multi-year APR was 950. Id., at ¶ 265.

8 167. Shortly after learning of Coach Schuller's termination, EWU Golf
9 Coach Howe sent EWU's administration the 4/22/21 email referenced above,
10 alleging Defendant Hickey's disparate treatment of older female employees,
11 including Coach Schuller in particular. Id., at ¶ 271. In that email, Coach Howe
12 advised that Coach Schuller had been terminated as a result of "retaliation, grudges,
13 and poor leadership", and explained she was sending the email because she feared
14 she too would be retaliated against by Defendant Hickey. Id.

17 168. On 4/6/20, EWU's Associate Vice President Annika Scharosch
18 accordingly sent Amy Cornish a letter, acknowledging that Ms. Cornish had "shared
19 concerns" about another male coach, and possible misconduct toward a female
20 soccer player in 2017. Ms. Scharosch also noted that Ms. Cornish had "shared
21 several experiences you have had in the Athletic Department where staff made
22 sexual comments or jokes about pornography." Id., at ¶ 273.

25 169. While it appears that Ms. Cornish did not pursue a formal complaint at

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1 that time, she did in fact participate in the 6/14/21 Title IX Investigation referenced
2 above that EWU commenced against Defendant Hickey following receipt of Coach
3 Howe's 4/22/21 email. Id., at ¶ 274.

4 170. The ensuing Investigative Report signed by EWU's Director of Equal
5 Opportunity Ray Rector confirms that Ms. Cornish emailed him the below complaint
6 about Defendant Hickey and the culture in the Athletic Department:

7 **15. Amy Cornish:**

8 On June 25, 2021 Ray Rector spoke with Amy Cornish, former EWU Employee, via
9 email. Cornish provided an email which contained a statement. The statement is below
10 in Cornish's own words.

11 "Differential treatment based on gender or staffing type

- 12
- 13 • It is my observation that Lynn has deep beliefs on gender roles.
 - 14 • When we hired Sarah in fall of 2018, Lynn said something about how great it is to have another female on staff to help plan parties
 - 15 • Mikayla Anderson and I were required to decorate the office for homecoming specifically because we are women and decorating is a woman's job. Both Mikayla & I expressed that we do not care about decorating or parties and don't have the best eye for that and Lynn still made us do it because we were the only women in the office.
 - 16 • Several times I was directed to plan parties or decorate events because it needed a "woman's touch" even though I expressed to no experience or desire to do this and our game day crew had a better eye for decor.
 - 17 • Pam's retirement party
 - 18 • NLI signing day
 - 19 • Football Senior banquet - Jace Butorac had planned this event for several years and knew what he was doing but Lynn said that men can't run events like that and she needed me to supervise the decorating details (2018)
 - 20 • One time in a senior staff meeting it was being discussed about what would happen if Dave Cook left and someone suggested Monica stepping into his role - Lynn responded saying a woman couldn't do his job and cover football.
 - 21 • I heard from someone - but did not verify, so it's only hearsay, that Lynn wouldn't consider me for Chad Karthauser's job when he left because it needed to be a man in that role."

22 Id., at ¶ 275.

23 171. Mr. Rector's Report further incorporated the full text of Coach Howe's
24 Complaint against Defendant Hickey:

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1 **1. Brenda Howe:**

2 On June 15, 2021 Ray Rector spoke with Brenda Howe, Women's Golf Coach, via
3 telephone. Howe stated she had sent an email to Human Resources about what she
4 had experienced concerning Lynn Hickey, Director of Athletics, discriminating against
5 the female coaches in Athletics. (See Attachment A for details) The email statement is
6 below in Howe's own words.

7 "On Sept. 29th I met with an NCAA Title IX representative. During this meeting, I
8 expressed concerns regarding our athletic director and the way female coaches are
9 treated within the department by her, as well as another head coach in our department.
10 In my complaint, I brought attention to the fact that female coaches are talked down to
11 by Lynn Hickey. She also allows another male head coach to do the same to other
12 employees and coaches during coaches meetings. I made it clear that I've learned to
13 not speak up for myself or for my athletes based on how Lynn Hickey treats Wendy
14 Schuller and Marcia Mecklenburg publicly in meetings when they have suggestions, ask
15 questions etc.....I don't want to put myself in a position for her to possibly treat me
16 poorly as she does with two other veteran female coaches.

17 During this meeting I mentioned that I'm certain that Lynn Hickey will hold grudges,
18 retaliate, and treat females differently when they speak up. I also expressed concerns
19 about my comments being passed along to Lynn. To my surprise, everything I had
20 brought up was passed directly to Lynn, which resulted in a meeting of her telling me
21 that I need to stay out of Wendy Schuller's drama, and in a way, she tried to convince
22 me that what I'm perceiving is not really the true perception of what is happening.

23 With recent events regarding the firing of our Women's Basketball Coach that I believe
24 is a result of retaliation, grudges, and poor leadership, I've made the decision that I
25 would like my concerns documented. The concerns I expressed are concerns that I feel
26 can be used by Lynn Hickey to retaliate against me and my future employment."

27 On June 15, 2021 Ray Rector received additional emails provided by Howe concerning
28 the treatment of female coaches by Hickey. (See Attachment B for details) These
29 emails concerns the scheduling of the weight room for fall 2020.

30 Id., at ¶ 276.

31 172. Mr. Rector also interviewed Alexis Gholston, Assistant Athletic
32 Trainer, who alleged "men's basketball is treated differently than [sic] the women's
33 basketball is. Gholston stated during team trips some of the females have to purchase
34 their own food. ... Further, Gholston stated the men's basketball coach will get
35 whatever they want, which isn't the case for the women's coach." Id., at ¶ 277.

36 173. Mr. Rector further cited to a statement provided by Sarah Adams, which
37 was purportedly "retracted". Id., at ¶ 278.

38 JOINT STATEMENT OF
39 UNCONTROVERTED FACTS - 36

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1 174. In particular, Mr. Rector notes reflect that Ms. Adams stated “she has
2 seen sexism in the Athletics Department,” and that “there is a very strong female
3 personality conflict between Hickey and any of the female members of the Athletics
4 Department, but that Hickey bends over backwards for the male members of the
5 department.” Id., at ¶ 280.
6

7 175. Mr. Rector’s notes also report that Ms. Adams told him “as a former
8 female coach Hickey is much more likely to get in a confrontation with the female
9 coaches and staff, but Hickey would never confront a male coach.” Id., at ¶ 281. He
10 recounts “Adams further stated that there is a major sexism problem in the
11 department that Hickey pushes.” Id.
12

13 176. After a conversation with Associate Vice President Attorney Annika
14 Scharosch, Ms. Adams emailed Mr. Rector stating “I believe I can support this effort
15 in a different direction. Will you please discard my statement and I will send over a
16 more aligned reiteration.” Id., at ¶ 283.
17

18 177. Mr. Rector’s Investigative Report concluded that there was insufficient
19 evidence to substantiate most of the allegations against Defendant Hickey. Id., at ¶
20 285.
21

22 178. A summary prepared by EWU of the interviews conducted as part of
23 the Survey identified the following statements by coaches and employees in the
24 Athletic Department regarding their experiences with Defendant Hickey:
25

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1 “*She talks to women coaches like idiot children*”

2 “*Lynn treats veteran female coaches like pieces of shit*”

3 “*Lynn allows sexist comments and language in meetings. Chauvinistic*
4 *language allowed.*”

5 “*Former women’s basketball coach has dirt on Lynn, and Lynn doesn’t like*
6 *her. So, she fired her and wouldn’t let her come into the building. Was told*
7 *to fire her by a male coach who Lynn listens to.*”

8 “*Lynn is a bully, and answering questions or talking about these issues make*
9 *[sic] me nervous.*”

10 “*Lynn contacts Athlete’s parents to get dirt on coaches with open*
11 *investigations.*”

12 “*Head football coach runs the roost and his opinion is what goes. There are*
13 *a lot of inequities that are going on.*”

14 “*Differences in hiring practices, giving preference to football*”.

15 “*Men’s sports do get more money from fundraising than women’s because we*
16 *don’t have the same support base. We can’t give the same money for food*
17 *and resources to our Athletes as other men’s sports do, so that’s concerning.*”

18 “*Men’s sports are prioritized way more than women’s.*”

19 “*Men’s sports get priorities, men’s coaches get priorities.*” Id., at ¶ 288.

20 179. Additional investigations were conducted into subsequent allegations
21 against Defendant Hickey later in 2021 and in 2022, including additional allegations
22 by Golf Coach Brenda Howe accusing Defendant Hickey of retaliation, and by the
23 former Interim Head Volleyball Coach Angela Spoja in 2022. Id., at ¶ 289.
24

25 180. After the parent of one of EWU’s Volleyball players complained to

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Defendant Hickey, alleging that his daughter and her teammates were being subjected to abusive and unlawful behavior by Coach Flores-Cloud, EWU Associate VP Annika Scharosch sent an email to Hickey stating, “we have already received concerns that people are perceiving your conversations as suppressing complaints and deterring people from reporting concerns of discrimination. As I am sure you know, this is very concerning and we always want everyone to feel open and encouraged to report concerns of discrimination.” Id., at ¶ 293. Associate VP Human Resources Deborah Danner, J.D. emailed advising Hickey “I encourage you to avoid placing yourself in a situation where it could be perceived that you are intimidating a witness.” Id.

DATED this 25th day of November, 2024.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of November, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send notification of such filings to the following:

- ### • Richard Reese Sterett

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**JOINT STATEMENT OF
UNCONVERTED FACTS - 41**

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